

### REMARKS

This responds to the Office Action mailed on August 21, 2008.

Claims 1, 7, 11, 17, 21, 25, 33 and 40 are amended; claims 3-6, 8-10, 13-16, 19, 23-24, 28-32, and 44-46 were previously canceled, without prejudice to the Applicant; as a result, claims 1-2, 7, 11-12, 17-18, 20-22, 25-27, and 33-43 are now pending in this application.

Example support for the claimed amendments can be found throughout the original filed specification. By way of example only, the Examiner's attention is directed to the original filed specification page.

### Drawing Objections

Figures 1-8 were objected to as having a reference numeral "500" that was used in a dual sense in the specification and because each of the Figures were labeled with mixed case identified in the format of "Fig." The reference numeral issue was corrected via an amendment to the specification and the mixed case issue was fixed by way of amendment to each of the figures to include just the uppercase label of "FIG." As such, these objections are now moot points and should be withdrawn. Applicant respectfully requests an indication of the same.

### Abstract Objections

The Examiner objected to the Abstract because it contained more than 1 paragraph. Applicant has amended the Abstract to include just 1 paragraph by deleting in its entirety the second paragraph. As such, this rejection is now a moot point. Applicant respectfully requests an indication of the same.

### Information Disclosure Statement

Applicant submitted an Supplemental Information Disclosure Statement and a 1449 Form on April 30, 2008. Applicant respectfully requests that initialed copies of the 1449 Forms be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

§101 Rejection of the Claims

Claims 11-12 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. As Applicant is sure, the Examiner is aware of the recent Federal Circuit decision that has defined for the PTO and Practitioners how it is that claims are to be drafted to overcome 101 rejections. This case is *In re Bilski*. In *Bilski* the technical arts and the concrete, useful, and tangible results tests were completely overturned. It is now sufficient for purposes of 101 analysis if the software is capable of being executed by a machine (processor or computer) or if the software changes the state of an article.

Moreover, the Examiner is directed to a very recent Board of Appeals Decision that was issued post *Bilski*: *Ex Parte Bo Li*, Appeal 2008-1213. Here, the Board stated that computer program product stored on a computer-readable medium and adapted to be executed to perform the method was in view of *Bilski* patentable subject matter.

Thus, the reasons for which the Examiner rejected claims 11-12 appear to have since changed in view of *Bilski* and the recent Board of Appeals decision regarding computer-readable medium claims.

In view of this the Examiner is invited to review claim 11 that originally states “for executing,” which clearly complies with the recent Board decision. As such, Applicant believes that this rejection is no longer appropriate in view of the amendment to the specification (as noted above to remove the dual use of reference numeral “500”) and the new law as interpreted by the Federal Circuit and the recent Board decision. Therefore, the rejections should be withdrawn. Applicant respectfully requests an indication of the same.

§112 Rejection of the Claims

Claims 1-2, 7, 11-12, 17-18, 20-22, 25-27 and 33-43 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. The Examiner has asserted that the specification did not exactly state the user of a “different data stream,” as Applicant had amended the claims. Applicant has now reworded this limitation and its corresponding “wherein” clause directly correspond to the exact language used in the original filed specification. As such, this rejection is no longer appropriate and should be withdrawn. Applicant respectfully requests an indication of the same.

Applicant submits that each and every object and rejection has now been addressed in the pending claims. Thus, the claims are in condition for allowance. Applicant respectfully requests an indication of the same.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (513) 942-0224 to facilitate prosecution of this application.

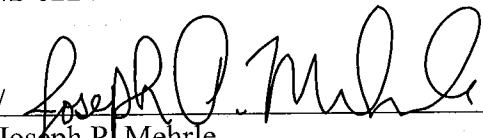
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 11-21-08

By

  
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 21, 2008.

Name

Rya Saunders

Signature

